

## Tip of the Moon Berg

Lately we have received several allegations that members of the public have lunar material in their possession and have been attempting to capitalize on this possession. To assist agents assigned to investigate the so-called moon rock cases, we are providing the following summary of NASA policy on the appropriate use and display of lunar material.

"Lunar materials are a unique and limited national resource. The use of available lunar materials, therefore, requires careful allocation, coordination, and management control to produce maximum scientific and technological benefits and to ensure public viewing access for worldwide audiences." NASA Management Instruction 1387.2E. NASA conducts a lunar display program pursuant to its charter under the Space Act to "provide for the widest, practicable and appropriate dissemination of information" about NASA and its activities.

NASA also uses lunar materials for scientific and technological research. In either case, NASA requires that all exhibitors execute a Lunar Sample Display Agreement when lunar material is displayed. An Apollo era regulation, NMI 7100.10, expressly stated that "lunar samples and artifacts are the property of the U.S. Government."

Because the United States is the only nation to have mounted a successful mission to the moon, all legitimate lunar material must have been derived from NASA (unless it came from a meteor.) Consequently, when lunar materials are in the public domain, legitimate questions arise: how did they get there?

Are they authentic?

NASA's lunar lab curator can determine authenticity of the lunar material. Generally third party custodians of purported lunar material have an interest in determining whether it is authentic and will relinquish the lunar material to NASA OIG for that purpose. The agent should obtain a signed consent-to-seize form that documents the voluntary relinquishment of the item, along with any agreed-upon conditions of the relinquishment. For example, in a recent case a desk set said to contain lunar material was given to NASA OIG on condition that only non-destructive testing be performed to determine authenticity. (Based on the limited testing, no lunar material could be detected.)

Where there is evidence that lunar material was wrongfully taken from NASA or one of its exhibitors, a federal prosecutor willing to take the case might invoke the general theft statute, 18 USC 641. The statute is broad, covering many types of theft: outright stealing, embezzlement, receiving of stolen goods as well as pilfering. It covers anything of value to the United States or any of its agencies. If the federal government can prove that a moon rock was knowingly converted to an unauthorized use or sold to another without authority, the statute is violated. Assuming the value of the lunar material is in excess of \$1,000, the violation is a felony.

If a prosecutor does not proceed criminally, a civil lawsuit for conversion of government property is another option. Under Federal Rule of Civil Procedure 64, the United States can petition the federal district court to "replevy" (return) the lunar material to the custody of the United States. Unlawful conversion need only be proven by a preponderance of the evidence.

There are scams in which con artists prey upon unwitting investors who seek to "own" a piece of the moon. We have had a number of cases where plain old earth was peddled as moon rock. People have been victimized for thousands of dollars by these schemes. When we become aware of them, we seek to prosecute those responsible to the fullest extent of the law. Generally, the mail and wire fraud statutes are sufficient to address these schemes.